

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

FILED  
January 19, 2024  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY: \_\_\_\_\_ NM  
DEPUTY

JAMES MARTZALL,

Plaintiff,

v.

DEUTSCHE BANK NATIONAL  
TRUST COMPANY, AS INDENTURE  
TRUSTEE, ON BEHALF OF THE  
HOLDERS OF THE ACCREDITED  
MORTGAGE LOAN TRUST 2006-2  
ASSET BACKED NOTES,

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CIVIL NO. SA: 5:24-CV-00042-OLG

Defendant.

ORDER

On this date the Court considered the status of the above styled and numbered case. It has come to the Court's attention that a previously filed suit by Plaintiff against Defendant relates to the same mortgage loan on 16543 Inwood Cove, San Antonio, Texas 78248. *See Martzall v. Deutsche Bank National Trust Company*, No. 5:22-CV-00018-XR (W.D. Tex. January 10, 2022). There, the case was dismissed *with prejudice*. *Id.* at Dkt. No. 39.

The court may raise res judicata *sua sponte* in the interest of judicial economy where both actions were brought before the same court and claims are nearly identical to claims previously litigated before the same court. *McIntryre v. Ben E. Keith Co.*, 754 F. App'x 262, 264 (5th Cir. 2018); *Boone v. Kurtz*, 617 F.2d 435, 436 (5th Cir. 1980). Claim preclusion, or res judicata, bars the litigation of claims that either have been litigated or should have been raised in an earlier suit. *Test Masters Educ. Servs. v. Singh*, 428 F.3d 559, 571 (5th Cir. 2005) (citing *Petro-Hunt, L.L.C. v. United States*, 365 F.3d 385, 395 (5th Cir. 2004)). The test for res judicata has four elements: (1) the parties are identical or in privity; (2) the judgment in the prior action was rendered by a court of competent jurisdiction; (3) the prior action was concluded by a final judgment on the merits; and (4) the same claim or cause of action was involved in both actions. *Id.* (citation omitted).

Generally, a “federal court’s dismissal with prejudice is a final judgment on the merits for res judicata purposes.” *Stevens v. Bank of America, N.A.*, 587 F.App’x 130, 133 (5th Cir. 2014). If the four elements of res judicata exist, all claims arising from the “common nucleus of operative facts” are barred by res judicata. *P&G v. Amway Corp.*, 376 F.3d 496, 499 (5th Cir. 2004) (citing *Agilectric Power Partners, Ltd. v. Gen. Elec. Co.*, 20 F.3d 663 (5th Cir. 1994)).

Accordingly, it is hereby **ORDERED** that Plaintiff shall **SHOW CAUSE** within fourteen (14) days of the entry of this Order why the claims against Defendant should not be dismissed with prejudice based upon res judicata.

It is so **ORDERED**.

**SIGNED** this 19th day of January, 2024.



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ORLANDO L. GARCIA  
United States District Judge